

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KAREN SCOTT,

Plaintiff,

-against-

WPIX, INC.

Defendant.

10-CV-4622 (WHP)

DECLARATION OF KAREN SCOTT

Karen Scott hereby declares pursuant to 28 U.S.C. § 1746:

1. I am the plaintiff in this action. I submit this declaration in opposition to defendant WPIX, Inc.'s ("WPIX") motion for summary judgment.
2. I was employed by WPIX from May 1993 until my employment was terminated on August 26, 2009.
3. Throughout the course of my employment with WPIX, including on the date of my termination, I was qualified to perform my duties and responsibilities as an employee.
4. I worked in television news for over 35 years. I began with WPIX in 1993 as Executive Producer for WPIX news. Within a year, I was promoted to Assistant News Director.
5. In 1996, I was promoted to News Director. As News Director, I was responsible for the content of the news programs, as well as for recruiting personnel for the News Department, including on-air talent and off-air staff.
6. At the time I began as News Director, WPIX only had a one hour (10:00 p.m.) news program. At the time I was fired, WPIX was producing approximately 30 hours of news coverage each week, including the News at Ten, weekend news, Morning News, a weekly political talk show, and breaking news events. Among other things, I was instrumental in

creating the morning news show which aired five days a week for four-and-one-half hours per day, and covered news, entertainment, weather, traffic, sports, and included live guests.

7. In December 2000, Betty Ellen Berlamino ("Berlamino") became General Manager of WPIX. As General Manager, Ms. Berlamino was my supervisor. She had ultimate responsibility for programming decisions, promotional efforts, and the station's budget, and was directly responsible for ratings for WPIX programming. As General Manager, Ms. Berlamino had the final say over all employment-related decisions within the News Department.

8. As part of her job as General Manager, Ms. Berlamino was charged with providing her staff, including myself, with the resources needed to ensure that programming could be competitively managed.

9. Ms. Berlamino failed to understand critical issues in the news industry and was prone to focus on inconsequential and unimportant matters within the News Department. As a result, promotional efforts and resources for the news programs were lacking despite the fact that the content of the news programs was well recognized as being of a high quality.

10. During my tenure as News Director, WPIX news received over 100 local and national awards for excellence in reporting, news coverage, public affairs, news specials, and features, including numerous New York Emmy Awards and Edward R. Murrow Awards. The following is a partial list of awards and recognition received by WPIX during the last five years under my leadership:

2009: New York State Associated Press Broadcasters Association: "Best Regularly Scheduled Local News Program," "Best Spot News," and "Best Continuing News Coverage"

New York Press Club: "Best Regularly Scheduled Local Newscast"

2008: Edward R. Murrow Award: "Best Newscast"

New York Press Club: "Best Regularly Scheduled Local Newscast"

Congressional Record for Leadership as News Director

2007: New York Emmy Awards: “Outstanding Single Newscast,” “Best Spot News,” and “Best Breaking News Story”

Associated Press New York State Broadcaster Association Grand Prize Television Award

2005: New York Emmy Awards: “Best Newscast” for the morning *and* evening news, “Outstanding Single Newscast,” and “Outstanding Single News Program”

11. In 2009 (the year I was terminated), the New York Chapter of the National Academy of Television Arts and Sciences nominated WPIX for 32 Emmy Awards, more nominations than WPIX’s competitors, WCBS, WNBC, WABC, WNYW, and WWOR. The nominations included Best Morning Newscast, Best Evening Newscast, Best Breaking News, Best Hard News Series, Best Investigative Series, Best Sports Coverage, and Best On Camera Talent.

12. The awards that were obtained by WPIX news during my tenure as News Director were reflective of the content of the news programs under my direction, the personnel that operated under my leadership, and respect from peers in the news industry. The recognition WPIX news received during my tenure was a quantum leap for its reputation and industry-wide standing in broadcast news.

13. During my employment, my annual performance reviews and evaluations consistently reflected the quality of my performance, significant contributions, and value-added to WPIX.

14. During my employment, I was never issued any warnings concerning my job performance or status. There was never an occasion where I met with Ms. Berlamino (or anyone else) and she (or anyone else) advised me, in sum or in substance, that my job was in jeopardy (or anything to that effect).

15. On August 26, 2009, Ms. Berlamino advised me that my employment was being terminated due to “ratings.” No additional explanation or information regarding the rationale for

my termination was provided by Ms. Berlamino, or by anyone else at WPIX. During this meeting, I was provided with a separation agreement that I refused to execute.

16. In an effort to save face, Ms. Berlamino asked me to voluntarily resign. Without my consent, WPIX issued a statement after I was terminated that falsely stated that I had “resigned,” although I clearly did not. I did not want my departure characterized as a “resignation” because it would have been inaccurate.

17. WPIX personnel were stunned by my termination. Numerous employees actually cried after being informed of my termination.

18. On my last day in the office, my colleagues presented me with a video tribute and an on-air tribute was aired. In the videos, WPIX staff praised my leadership, people skills, and overall performance and expertise as News Director. In a most telling reflection of my time as News Director, on my last day at WPIX, the station received an award from the New York Press Club for 2009 “Best Regularly Scheduled Local Program.”

19. My last day of work at WPIX was September 4, 2009. At the time I was terminated, I was the longest running news director at any station in New York City.

20. There were various factors that impacted ratings for the news programs. These included ratings for lead-in programming, promotional efforts, and resources devoted to the news. These were all factors that were beyond my control, as I was primarily focused on the content of the news programs and managing the personnel within the News Department.

21. The lead-in programming for WPIX news was substantially inferior to other local stations. By way of example, while WPIX news at 10:00 p.m. was repeatedly recognized and received numerous awards, the lead-in programming was rarely, if ever, mentioned or recognized in a positive light. During a 2008 WPIX staff meeting, Randy Michaels, Tribune’s Executive Vice President, remarked on the significance of lead-in programming stating, to the

best of my recollection, that 50% of the ratings for any programming is dependent on lead-in programming.

22. In addition, there were flaws within the “ratings” system, as reflected in complaints lodged against Nielsen Media Research (“Nielsen”), that Ms. Berlamino and others believed contributed to the reported ratings for WPIX’s news programs. WPIX designated personnel to study this issue and Ms. Berlamino discussed her dissatisfaction with Nielsen. Of particular import, it was believed that the Nielsen ratings did not properly account for the minority audiences WPIX aimed to, and did, attract and were therefore of limited utility in determining the true audience for WPIX news.

23. Despite the numerous awards and recognition the news division received, WPIX’s promotional efforts for the news was minimal and, at times, non-existent. Ms. Berlamino failed to devote the proper resources to promote the news programs. The budget for promotional efforts was prepared by WPIX’s Creative Services Directors; on-air promotions were a collaborative effort between the News Department and Creative Services.

24. Furthermore, as compared to its peers, WPIX had less resources and staff. WPIX news utilized fewer reporters, fewer trucks for live shots, less camera equipment, and fewer camera operators. In addition, upon information and belief, compensation for WPIX employees was less than similarly-situated employees at other New York news stations.

25. The financial condition of the Tribune, which resulted in it (and WPIX) filing for bankruptcy in December 2008, also adversely impacted WPIX’s ability to operate competitively. Following Tribune’s bankruptcy, the budget for the news was cut, staff reductions were made, and there was a cut or freeze in salaries and compensation metrics.

26. WPIX’s actions in terminating me was consistent with actions taken to terminate or significantly modify roles of other older employees as well as with age-based comments made by Ms. Berlamino. For example:

(i) in 2009, WPIX demoted Marvin Scott (72 years old), from weekday to weekend reporting duties. Ms. Berlamino had frequently made age-related remarks about Mr. Scott, including that he looked “too old” and “why doesn’t he just retire already?” Ms. Berlamino had also wanted to cancel Mr. Scott’s weekly show, but did not because, upon information and belief, FCC regulations required each station to have a community affairs or political talk show and this show satisfied the FCC requirement.

(ii) in 2009, WPIX directed Kaity Tong (60 years old), and an anchor of WPIX news since 1991, to undertake certain additional tasks and responsibilities, as part of a concerted effort aimed at forcing her departure from WPIX. Ms. Berlamino had in the past made comments about Ms. Tong’s age, remarking that she was “too old.”

(iii) in December 2008, WPIX decided not to retain Sal Marchiano (68 years old). Ms. Berlamino remarked to me that Mr. Marchiano “doesn’t look good on the air” due to his advanced age and that he was “too old.” Mr. Marchiano was replaced by Lolita Lopez, who I was involved in selecting to replace him *after* Ms. Berlamino advised me that Mr. Marchiano was not going to be retained.

(iv) in 2009, WPIX decided not to retain Larry Hoff (58 years old), a reporter. Ms. Berlamino made age-related comments about Mr. Hoff, including that he was “too old” to continue in his job.

(v) in 2009, WPIX demoted Mary Murphy (50 years old), from weekend anchor to general assignment reporter. Ms. Berlamino made age-related comments about Ms. Murphy including that she was “too old” to continue in her position.¹

¹ Other decisions that I believe were made by Ms. Berlamino based on the age of employees included terminating Barry Cunningham, who I believed was an asset to the News Department. When Ms. Berlamino decided to terminate Mr. Cunningham, I mentioned to Jean Maye, WPIX’s Human Resources director, that I thought this decision was based on age. Ms. Maye told me that she tried to reason with Ms. Berlamino, but that Ms. Berlamino wanted to terminate Mr. Cunningham. Janet Maslow, 63, the WPIX Business News Manager, was terminated in 2008 despite the fact that she was highly qualified to continue in her role and her position was important to the daily operation of the newsroom. And, Vanessa Tyler, 50, was terminated in July 2009 as a reporter for the New Jersey bureau, even though she could have been reassigned to work in New York.

27. Ms. Berlamino had a pattern of sending harassing e-mails to me and other WPIX employees in what was apparently part of a concerted effort to paper the record to support her decision to terminate these employees. For example, Ms. Berlamino sent e-mails regarding coverage of a protest outside the Israeli mission (despite the fact that WPIX was already covering this news story) and purposefully overreacted to an incident that took place on April Fool's Day as part of her campaign against Tim Armstrong.² Ms. Berlamino also raised a fuss about a newscast from Shea Stadium involving Mr. Marchiano despite the fact that technical difficulties, over which Mr. Marchiano had no control, were the primary reason for problems with the broadcast. And, Ms. Berlamino wrote numerous e-mails concerning an incident in August 2009 between Amy Growick and Emily Frances, as part of her effort to justify my termination, despite the fact that I had previously addressed the issues between Ms. Growick and Ms. Frances.

28. Ms. Berlamino's focus on age did not go unnoticed. In June 2009, Myrna Ramirez, the former Vice President of Human Resources at Tribune, requested that I provide her with information concerning the ages of certain individuals employed or formerly employed by WPIX because of her concern that Ms. Berlamino was taking actions adverse to older employees.

29. In response to certain other allegations made by WPIX in its summary judgment motion:

(i) I was very familiar with union contracts; during my time as News Director I negotiated numerous union contracts.

(ii) I routinely had conversations with Ms. Berlamino about evaluating staff and improving ratings as part of my job as News Director.

² Steve Charlier, Tribune's Vice President of News and Operations, told me that he thought the April Fool's joke was amusing.

(iii) I had little interaction with Mr. Charlier; the interaction we had was primarily limited to personnel and staffing issues.

(iv) I was never told by anyone within Tribune management to change any aspect of my job in order to become aligned with the Tribune "vision." (In fact, I was never advised by anyone that there was a Tribune "vision.").

(v) Ms. Berlamino was opposed to the trip to Iraq and only agreed to it after my crew and I secured free transportation and lodging. The Iraq trip was a huge success for WPIX and resulted in my recognition along with my crew with the Tribune Values Award, one of the most (if not the most) prestigious awards handed out by the Tribune.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: September 23, 2011



Karen Scott